

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DARRYL JOHNSON, #561762,

Petitioner,

v.

Case No. 13-13080

Honorable George Caram Steeh

STEVE RIVARD,

Respondent.

**ORDER AMENDING THE CAPTION,  
DIRECTING THE CLERK OF COURT TO SERVE  
THE AMENDED PETITION ON THE STATE, AND DIRECTING  
THE STATE TO FILE A RESPONSE TO THE AMENDED PETITION**

On July 18, 2013, petitioner Darryl Johnson filed a pro se habeas corpus petition challenging his Michigan convictions for assault with intent to commit murder, Mich. Comp. Laws § 750.83, felon in possession of a firearm, Mich. Comp. Laws § 750.224f, carrying a concealed weapon, Mich. Comp. Laws § 750.227, and possession of a firearm during the commission of a felony, Mich. Comp. Laws § 750.227b. See Dkt. No. 1. Petitioner's sole ground for habeas relief was that the state trial court deprived him of his constitutional right to present a defense by refusing to instruct the jury on self-defense.

In a motion filed on the same day as the habeas petition, petitioner stated that he wished to pursue state-court remedies for a new claim about his trial attorney's failure to properly raise a claim of self-defense. He asked the Court to hold his habeas petition in abeyance while he pursued state remedies for his ineffective-assistance-of-counsel claim. See Dkt. No. 3. On October 8, 2013, the Court granted petitioner's motion and closed this case for administrative purposes. See Dkt. No. 8.

In 2018, petitioner asked the Court to re-open this case, see Dkt. Nos. 12, 13, and 15, and on July 24, 2018, the Court granted petitioner's requests and ordered petitioner to file an amended petition for the writ of habeas corpus within thirty days of the Court's order. See Dkt. No. 16.

On August 6, 2018, petitioner filed a habeas corpus petition, but because he did not write the case number for this case on his pleading, the Clerk of Court treated the petition as a new case and assigned it to United States District Judge Sean F. Cox. On August 28, 2018, Judge Cox closed his case and directed the Clerk of Court to file the petition in this case. See Johnson v. Bauman, No. 2:18-cv-12433 (E.D. Mich. Aug. 28, 2018). The petition was then filed as an amended petition in this case. See Dkt. No. 17.

The Court orders the Clerk of Court to serve the amended petition and a copy of this order on the Michigan Attorney General and on petitioner's

warden. The State's records indicate that petitioner currently is confined at the Chippewa Correctional Facility, 4269 W. M-80, Kincheloe, MI 49784, where Connie Horton is the warden. Accordingly, the Clerk of Court shall amend the caption and docket for this case to reflect petitioner's current warden and place of confinement. The new caption shall read: Darryl Johnson v. Connie Horton.

The State shall have **six (6) months** from the date of this order to file a response to the amended petition and the relevant state-court materials. Petitioner shall have **forty-five (45) days** from the date of the responsive pleading to file a reply.

Dated: January 8, 2019

s/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on January 8, 2019, by electronic and/or ordinary mail and also on Darryl Johnson #561762, Alger Maximum Correctional Facility, N6141 Industrial Park Drive, Munising, MI 49862.

s/Marcia Beauchemin  
Deputy Clerk